



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

Sent to the following addressees via email to their counsel, David Edelstein and Lou McMahon

Board of County Commissioners of Hamilton County
County Administration Building
138 East Court Street, Suite 603
Cincinnati, Ohio 45202

Lauren DeGoricia
General Counsel
1600 Gest Street
Cincinnati, Ohio 45204

Diana Christy, Director
Metropolitan Sewer District of Greater Cincinnati
1600 Gest Street
Cincinnati, Ohio 45204

Re: Regulators' Approval of Request for Six-month extension of Post-Construction
Monitoring Period for the Lower Mill Creek Partial Remedy

Dear Commissioners, Ms. DeGoricia and Ms. Christy:

Via an email dated March 24, 2021, the Board of County Commissioners of Hamilton County ("the County") and City of Cincinnati requested a six-month extension of the monitoring period for the Lower Mill Creek Partial Remedy, as provided for Post-Construction Monitoring Study Workplan ("PCMSWP"), to include monitoring this spring when the green infrastructure has been established. A copy of the request is enclosed with this letter.

By this letter, which is being signed on behalf of the United States Environmental Protection Agency, Ohio Environmental Protection Agency and Ohio River Valley Sanitation Commission (the "Regulators"), the Regulators approve the attached request in accordance with Section II.A.2.b of the PCMSWP. Defendants are required to implement the approved PCMSWP in accordance with the terms and conditions of the PCMSWP and specified in the attached request.

If you have any questions, please contact either Andi Hodaj of my staff at 312-353-4645 or Gary Prichard from our Office of Regional Counsel at (312) 886-0570.

Sincerely,

Michael D. Harris
Director, Enforcement and Compliance Assurance Division
U. S. Environmental Protection Agency, Region 5

Enclosure

cc (via email):

David Edelstein, County for Board of County Commissioners
Lou McMahon, Counsel for City of Cincinnati
Marilyn Wall, Sierra Club
David Altman, Counsel for Sierra Club
Leslie Allen, U.S. Department of Justice
Sushila Nanda, OECA
Ohio EPA and ORSANCO Regulator team

Prichard, Gary

From: Louis L. McMahon <lmcmahon@mdlip.net>
Sent: Wednesday, March 24, 2021 11:01 AM
To: Prichard, Gary; leslie.allen@usdoj.gov; Nanda, Sushila; lawrence.helkowski; bill.fischbein@epa.ohio.gov
Cc: 'Edelstein, David M.'
Subject: For Settlement Purpose Only: MSDGC PCMSWP Monitoring Extension
Importance: High

Dear Regulators,

Defendants Hamilton County and the City of Cincinnati request a six- month extension of the monitoring period for the LMCPR, as provided for in the PCMSWP, in order to include monitoring this spring when the green infrastructure has been established.

Section II.A.2.b of the PCMSWP (approved in March 2020) provides: if “the use of green infrastructure necessitates a longer establishment [flow monitoring] period than 12 months to allow their full effectiveness to be best evaluated, defendants may request that the Regulators approve a longer period than 12 months following completion of construction...”. That section also provides that any agreed extension would constitute a non-material modification. Based on the conditions over the previous year, as reflected in the below photos (March 2020 on the left, December 2020 on right), Defendants request the extension of the establishment period for 6 months (to July 7, 2021) to allow for the capture and use of this spring’s data for calibration of the models.



Further, based on our discussions and agreement of the Parties, there is a desire to expand the performance evaluation of the LMCPR, such that the final report will include the following analyses:

1. Calibrate model using the 7/2020-7/2021 monitoring data;
2. Run the typical year rainfall through the validated model;
3. Run the actual rainfall from 1/2020-7/2020 ("Spring 2020," reflecting conditions before GI establishment) through the model and "project the number and volume of CSOs" from the LMCPR projects;
4. Run the actual rainfall from 1/2021-7/2021 ("Spring 2021," reflecting conditions after GI had an entire year to become established) through the same model and get the same measures of performance; and
5. Compare the modeled results for Spring 2020 with the CSO monitoring results for Spring 2020.

To accommodate the additional analyses, the parties have agreed to an additional two months to submit the required report. Working from a completion of construction (CoC) date of January 7, 2020, the PCMSWP LMCPR report submission deadline will now be May 7, 2022.

We appreciate your continuing and timely attention to this request.

Thanks,

Lou and Dave

Louis L. McMahon

Partner

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